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VIA ECFS

August 10, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Rural Independent Competitive Alliance, Petition for Declaratory Ruling;
Blackfoot Communications, Inc., Request for Review of Decision of
Universal Service Administrator. WC Docket No. 06-122.

Universal Service Contribution Methodology, WC Docket No. 06-122

A National Broadband Plan For Our Future, GN Docket No. 09-51

Written *Ex Parte*

Dear Ms. Dortch:

The Rural Independent Competitive Alliance (“RICA”) and Blackfoot Communications, Inc. (“Blackfoot”) hereby provide information in response to staff questions regarding the amount of federal Universal Service Fund (“USF”) contributions that would be subject to refund were the Federal Communications Commission (“FCC” or “Commission”) to grant the above-referenced Petition for Declaratory Ruling and Request for Review.¹ The Request for Review seeks reversal of a Decision by the Universal Service Administrative Company (“USAC”) based on instructions to the Form 499-A. The Decision required BCI, a rural Competitive Local Exchange Carrier (“CLEC”), to attribute a portion of its fixed local services revenues to the interstate jurisdiction and to pay USF contributions on this imputed interstate revenue. BCI has paid the disputed amounts under protest.

The RICA Petition for Declaratory Ruling requests that the Commission declare that there is no binding legal obligation or mechanism that compels rural CLECs to report on FCC

¹ See *Ex Parte* Notice from David Cosson, counsel to RICA, dated May 24, 2012 in WC Docket 06-122 & GN Docket No. 09-51.

Form 499-A as interstate revenue any portion of their end user revenues that are not received by them pursuant to rates explicitly designated as charges for the provision of interstate service and that end user revenues recovered pursuant to rates charged for the provision of telephone exchange service entirely within one state are intrastate revenues. As in BCI's case, based on USAC's position that the instructions to the Form 499-A require rural CLECs to impute a certain percent of their intrastate telephone exchange service revenues to the interstate jurisdiction, certain RICA members have imputed a portion of their fixed local services revenues to the interstate jurisdiction and paid USF contributions on this revenue under protest.

The total amount paid under protest to date by BCI and the four (4) affected RICA members is approximately \$810,000. Accordingly, upon grant of the relief requested in the Petition for Declaratory Ruling and Request for Review, this amount would be subject to refund to the protesting companies. Because of the difference in the timing of the collection of USF contributions from end user subscribers and the payment of contributions to USAC, some of the disputed amounts were collected from end user subscribers and some were not and had to be "eaten" by BCI and the affected RICA members. Any amounts collected from end users would be refunded to such end users were the Commission to grant the requested relief. In addition, because contributions are ongoing and BCI and the affected RICA members continue to pay certain contributions under protest, the amount subject to refund will continue to increase over time.²

This matter is ripe for resolution. We request that the Commission act on the pending Petition for Declaratory Ruling and Request for Review and grant the relief requested therein. If the Commission would like additional information regarding this matter, please contact the undersigned.

Sincerely,



Greg Whiteaker
Counsel to Blackfoot Communications, Inc.

/s/ David Cosson

David Cosson
Counsel to Rural Independent Competitive Alliance

cc: Julie Veach
Carol Matthey
Vickie Robinson

² Although the contributions of other CLECs that provide fixed local services in a single state may or may not be reduced prospectively related to the Commission's actions on the issue raised in the Petition for Declaratory Ruling and Request for Review, BCI and RICA are aware of only one other CLEC that apparently has paid disputed amounts under protest and/or disputed invoices related to this issue and that, presumably, also would be subject to a refund. *See Grande Communications Request for Review of Decision of the Universal Service Administrator, WC Docket No. 06-122 (filed Dec. 28, 2009).*